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I am submitting my testimony today in opposition to H.B. 5141 because it reenacts the Emergency Manager Law. I testify against this bill because it makes the law more harmful. It does not solve any of the problems the EM Law created. The EM Law is flawed in design. It should be repealed/replaced. I was an appointed special Genesee County prosecutor in the Flint Water cases. I reviewed thousands of records of Emergency Managers, of the Treasury Department and the DEQ in the Flint cases. I concluded the Emergency Manager Law was a key cause of the Flint Water Crisis and should be repealed and replaced. There is a bill coming for a hearing in the Senate to repeal and replace the Emergency Manager Law that I support.

I represented Cities and Counties and Pension Boards from 1994-2009 and gave numerous lectures to the Michigan Association of Municipal Lawyers and represented the Michigan Municipal league in my first appeal brief in the Michigan Supreme Court. I have consulted at Michigan State University on municipal law and finance issues. I speak only as a citizen today and only on my own behalf.

The Emergency Manager Law is without precedent in the United States. No other state has an EM Law that gives such broad powers to an Emergency Manager to exercise city power:

- 1) suspend city government and put in an unelected, unaccountable non-resident overseer
- 2) Solely controlled by the Governor who has the final say, and
- 3) And insulating the EM from being held liable for the actions taken to harm the City and its residents.

On the surface it would look as if H.B. 5141 addresses major flaw of the current EM law by replacing an unelected municipal overseer with a team of professional and citizen

consultants. However, replacing an individual with a panel of people will not fix the problems this law caused in the past nor will it avoid causing new problems in the coming years.

Detroit is not an example of the success of the EM Law.

Detroit's bankruptcy led to the solvency of the City of Detroit. Reducing its debts in a bankruptcy court proceeding would have been adequate. This legal process could have protected residents' right to be heard, given subpoena power to insure all creditors got to see the documents and to hear testimony to judge the actions taken to reduce debt.

We cannot hold up Detroit to sell the EM Law. If a local unit of government is in need of restructuring its debt and bankruptcy is necessary, a professional with bankruptcy experience can and should be hired to navigate the bankruptcy for the municipality.

None of the rights to ensure government accountability are protected under the Emergency Manager Law.

1). There is no Freedom of Information Act access to emergency manager emails or documents.

2) You are not allowed as a City resident to know who a EM has been talking to, influenced by, what documents the EM has read or what reasons are given in the memos by which the EM explains the decision.

3)There is no right to be heard or to question an emergency manager.. When Flint residents tried to ask if the water was safely treated, they were arrested. We prosecuted citizens who tried to protect their children from lifelong health harm. The law allowed it.

4. You, the elected representatives, have no right to question an emergency manager's decisions.

It is important to understand that this lack of transparency and accountability will not change with H.B. 5141. The provisions in this bill are just window dressing.

It is that lack of accountability and transparency that led to and deepened the Flint Water Crisis — with devastating impact for the people of Flint. For example:

Rep Phil Phelps asked to see the Flint water engineering reports and the Governor, Treasury and the EM denied him a right to see them.. Engineering reports must be put on the internet the day they are received under a statute this legislature passed that only applies to Detroit— except when it is under emergency management. In other cities the In other Michigan cities, the Freedom of Information Act forces such disclosures unless they are under Emergency Management.

Even City officials cannot get information from an emergency manager. The City of Flint sought to subpoena the water engineering reports at a City Council hearing. The EM refused to provide them since the Freedom of Information Act did not apply under Emergency Management and the EM did not have to respond to its subpoena. The City could not sue in Court to obtain the engineering reports. The Emergency Manager Law removes the City Council's and te Mayor's ability to sue. The Emergency Manager Law imposes insurmountable obstacles on the ability of the City or its residents to sue to obtain information from the Emergency Manager. The Governor's Water Study Task Force asked to see the engineering reports after Flint had already been drinking toxic water flowing into pipes and cups at breakfast before kids went to school. The reports revealed that the water was toxic because the EM refused to follow the Engineering Reports it had commissioned. This dangerous and undemocratic lack of transparency and accountability not change with H.B. 5141.

The voters rejected the Emergency Manager Law in 2012 in all but four counties out of 83 counties.. You should not pass a law the voters rejected. and would like to do so again. It was rejected by voters who identify as Democratic and as Republican voters and by Independents. It was rejected by a higher margin than Republicans won their seats in the Legislature.

If you wish to pass this law, ask the voters to do so as you've done in other instances. Republicans and all Americans believe in no taxation without representation. If you believe in this principle, you should not reenact this law.

The Emergency Manager Law did not work in balancing budgets of cities that were in a Fiscal Crisis. It is an accounting solution to a problem of structural deficits. It gave incentives and a legal duty to eliminate short-term fiscal deficits. This power was exercised in ways that increased long-term deficits. In other words, it backfired. Take the City of Flint.. You just paid out a settlement over \$800 million because of emergency manager actions . The State also spent \$180 million to reimburse City of Flint residents who were billed to pay for toxic water they could not drink because of its lead levels.

. If The State spent far more to fix mistakes made by Emergency Managers who were under the control of the Governor, the DEQ and Treasury than the amount of City deficit the Emergency Manager was tasked to eliminate.

Another example is the Detroit Public Schools. An Emergency Manager and Emergency Financial Manager were in power over 12 years. During that time, the amount the School District's deficit increased from about \$100 million to over \$700 million. The Legislature had to bail out the Detroit public school deficits created by the emergency and financial managers.

The legislators who passed the Emergency Manager Law (P.A. 436), substantially the same as the bill before you, did so in a Lame Duck session . Many of them would not return due to term limits. At all points in the process, the will of the voters has been ignored.

The Legislature would be abdicating its Constitutional role if it supports HB 5141, thus reenacting the Emergency Manager Law. This bill is even more flawed than its predecessor. The bill extends the Manager's term and broadens his or her powers. The bill broadly delegates the elected legislators' and City officials' powers of governance to an unaccountable "team.". This bill is putting lipstick on a pig. Plainly put: no governor should have unlimited and unaccountable power to govern a state's cities in secret. .

I am happy to answer questions that the Committee may have about H.B. 5141.

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